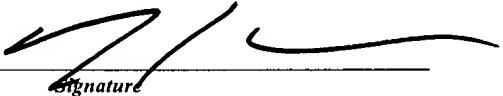



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TRANSMITTAL OF APPEAL BRIEF (Large Entity)					Docket No. 1354	
In Re Application Of: KOTLARSKI						
<div>NOV 21 2005 PATENT & TRADEMARK OFFICE</div>						
Application No. 09/674,447	Filing Date 12/26/2000	Examiner GRAHAM, G.	Customer No. 278	Group Art Unit 1744	Confirmation No.	
Invention: WIPER BLADE FOR CLEANING VEHICLE WINDOWS						
<p style="text-align: center;"><u>COMMISSIONER FOR PATENTS:</u></p> <p>Transmitted herewith in triplicate is the Appeal Brief in this application, with respect to the Notice of Appeal filed on 09/23/2005</p> <p>The fee for filing this Appeal Brief is: \$500.00</p> <p><input type="checkbox"/> A check in the amount of the fee is enclosed.</p> <p><input checked="" type="checkbox"/> The Director has already been authorized to charge fees in this application to a Deposit Account.</p> <p><input checked="" type="checkbox"/> The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 194675</p> <p><input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.</p> <p>WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</p> <div><div> Signature</div><div>Dated: 11/18/2005</div></div> <div><div>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on 11/18/2005 (Date)  Signature of Person Mailing Correspondence MICHAEL J. STRIKER Typed or Printed Name of Person Mailing Correspondence</div></div>						

CC:

UNITED STATES PATENT AND TRADEMARK OFFICE



Examiner: Gary K. Graham

Art Unit: 1744

In re:

Applicant: Thomas KOTLARSKI

Serial No.: 09/674,447

Filed: December 26, 2000

BRIEF ON APPEAL

November 18, 2005

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 2313-1450

Sir:

This is an appeal from the final rejection of claims 2-6, 8-13,
16 and 17 by the Primary Examiner.

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On _____

Real Party of Interest

The real party of interest is Robert Bosch GmbH, having a business address of Postfach 30 02 20, D-70442 Stuttgart, Germany.

Related Appeals and Interferences

The other are no pending appeals, interferences, or judicial proceedings known to appellant, the appellant's legal representative, or assignee which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

Status of Claims

In the Final Office Action, the Examiner indicated that claims 18 and 19 were allowed by him.

Claims 2-6, 8, 9, 16 and 17 were rejected under 35 U.S.C. 103(a) over the German patent to Merkel, et al in view of the U.S. patent to Rosen.

Claims 2-6, 8-11, 16 and 17 were also rejected under 35 U.S.C. 103 over the German patent to Merkel in view of the U.S. patent to Oishei.

Claims 12 and 13 were rejected under 35 U.S.C. 103(a) over the German patent to Merkel in view of the U.S. patents to Oishei and Samartgis.

Claim 16 and 17 were also objected to.

After the Final Office Action, the appellant's filed a Request for Reconsideration on August 18, 2005.

In the Advisory Action of August 31, 2005, the Examiner indicated that the objections to claims 16 and 17 were overcome, claims 18 and 19 were allowed, and claims 2-6, 8-13, 16 and 17 were still rejected. The Examiner entered the Request for Reconsideration.

Summary of Claimed Subject Matter

The present invention deals with a wiper blade for window panes in motor vehicles.

In accordance with the present invention as defined in claims 16 and 17 the wiper blade has an elongated rubber-elastic wiping strip 20 connectable with a window pane and having two longitudinal sides in which open-edged longitudinal receiving grooves 32 are arranged in a plane approximately parallel to the window pane. The wiping strip also

has a longitudinal web 36 provided between bases of the receiving groove 32.

The wiping blade further has a carrying element with two strip-shaped elongated, resilient carrying rails 12 which are accommodated in the grooves 32, so that the wiping strip 20 is located directly on a lower side of the carrying rails 12. A connection device is provided for a wiper arm, which is a part of the carrying element and in a middle region it is arranged directly on an upper side of the carrying rails 12. The carrying rails are secured in the receiving grooves 32 transversely to their longitudinal extension with L-shaped claws. A first leg 48 of each L-shaped claw traverses outer edges 52 of the carrying rails 12, while a second leg 50 engages under the respective carrying rail.

A distance 60 which is measured transverse to a longitudinal extension of the wiper blade 10 between facing inner edges of the first leg 48 is less than a sum of a width 62 of the two carrying rails 12 plus a width of the longitudinal web 36 of the wiper strip 20. The wiper strip 20 therefore is held by a compression produced in the web in the middle region of the wiper blade under the connection device relative to the carrying element.

These features are defined both in claim 16 which defines a wiper blade for window panes in motor vehicles, and in claim 17 which

defines a wiper system for window panes which includes a wiper arm and a wiper blade formed as defined in claim 16. They are described on pages 4-8 of the specifications and shown in Figures 1-9 of the drawings.

Grounds of Rejection to be Reviewed on Appeal

The Examiner rejected claims 2-6, 8-11, 16 and 17 under 35 U.S.C. 103(a) over the patent to Merkel in view of the patent to Oishei. Claims 12 and 13 were rejected under 35 U.S.C. 103(a) over the patent to Merkel in view of the patents to Oishei and Samartgis.

Thus, these are the grounds to be reviewed on appeal. In particular, it is necessary to review whether the rejection of claims 2-6, 8-11, 16 and 17 as being obvious over the combination of the patents to Merkel and Oishei can be considered as justifiable. Also, it should be reviewed whether the rejection of claims 12 and 13 as being obvious over the patents to Merkel, Oishei, and Samartgis should be considered as justifiable.

Argument

It is believed that the Examiner's rejection of claims 16 and 17 can not be considered as justifiable.

The German patent to Merkel discloses a so-called hinge-free wiper blade, in which the supporting element is composed of two spring rails located in longitudinal grooves of the wiper blade and held there by clamps. As specifically stated in column 3, starting from line 27 of this reference:

“By target-oriented compression of the clamps, a certain deformation of the wiper arm body 22 is obtained, whereby a securing of the supporting element 12 on the wiper strip and a securing of the clamps 50 which belong to the supporting element 12 on the wiper strip is obtained”.

The clamps 50 are however explicitly arranged on the ends of the supporting element as explained in column 3, starting from line 9.

“The two clamps 50 which in the shown embodiment are formed identical belong to the supporting element 12, and they are arranged on both ends of the wiper strip 14 and connect the neighboring ends of the longitudinal rails in pairs with one another.”

Nowhere in this reference is disclosed that the intermediate clamps 60, on which the connection device 66 is arranged, must be used to hold the wiper strip by a compression on the support element. This type of mounting was limited until now always to the ends of the supporting rails or longitudinal rails, which is shown in the U.S. patents to Rosen and to Oishei.

With the special type how to insert the wiper strip with its longitudinal rails into the supporting bracket frame, a person of ordinary skill in the art who familiarized himself with the patent to Merkel can only obtain the teaching to use the end claws of the supporting bracket system to produce a certain pressure. The sections cited by the Examiner can not be changed so that the cam-shaped structure however can be repeated on other locations on the longitudinal rails. This structure would correspond closer to the inner projections claimed in the present application, as can be seen in Figures 7-9. As explained in column 2, starting from line 61, such a structure reinforces the sheet and changes the elastic properties in such regions, so that a person skilled in the art would keep away such cams along the supporting element, since local reinforcement in the wiper blades without supporting bracket frame must be avoided. It is therefore follows that a person skilled in the art would not combine the teachings of the patents to Merkel and Rosen to arrive at the present invention defined in claims 16 and 17.

From the patent to Oishei a person of ordinary skill in the art can obtain a teaching to provide compression on the ends of the wiper strip and the support element, and in this reference a supporting bracket frame and the claw brackets connected with it are utilized. Since this reference deals with a so-called refill solution in which subsequently a wiper strip together with its longitudinal rails is introduced into an available

supporting bracket frame, it is not possible to use a central claw of a claw bracket for carrying out the compression. The wiper strip would then be no longer insertable from its end. It is therefore believed to be clear that the combination of the patent to Merkel with the patent to Oishei would also not lead to the applicant's invention.

It is believed that the Examiner's opinion that the wiper blade defined in claims 16 and 17, in which the wiper strip with a hinge-free wiper blade without a supporting bracket frame is held by the special construction of the connection device by compression under the connection piece for the wiper arm, can be considered as a hindsight consideration of the Examiner who familiarized himself with the new features of the present invention as defined in these claims. The prior art does not disclose these features, and these features can not be derived from the prior art either taken singly or in combination with one another as a matter of obviousness.

The Examiner rejected the claims as being obvious over two combinations of the references. As not shown herein above, the references did not teach the new features of the present invention as defined in claims 16 and 17, and these features can not be derived from the references taken singly or in combination with one another. Instead, in order to arrive at the applicant's invention from the references, the

references have be fundamentally modified by including into them directly the new features of the present invention which are now defined in claim 16 and 17. However, it is known that in order to arrive at a claimed invention, by modifying the references the cited art must itself contain a suggestion for such a modification.

This principle has also been consistently upheld by the U.S. Court of Customs and Patent Appeals which, for example, held in its decision in re Randol and Redford (165 USPQ 586) that

Prior patents are references only for what they clearly disclose or suggest; it is not a proper use of a patent as a reference to modify its structure to one which prior art references do not suggest.

Definitely, there is nothing in the references to suggest such significant modifications.

In view of the above presented arguments, it is believed that claims 16 and 17 should be considered as patentably distinguishing over the art and should be allowed.

As for the dependent claims, these claims depend directly or indirectly on claim 16, they share its presumably allowable features, and therefore they should be allowed as well.

Reconsideration of the present application, reversal of the Examiner's rejection of the claims and allowance of the present application is most respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael J. Striker', with a long horizontal flourish extending to the right.

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APPENDIX

Claim 1 cancelled.

2. Wiper blade according to claim 16, wherein each of the two carrying rails (12) projects out of its receiving groove (32) at least along a longitudinal portion by an edge strip, and in that the second L-legs (50) engage the lower strip surface (19) of their carrying rails (12) which faces the window pane (14).

3. Wiper blade according to claim 16, wherein the holder (16) has a plate-shaped body (42) which is supported at the upper strip surfaces (13) of the carrying rails (12), the first L-legs (48) of the claws (46) being connected with longitudinal sides (44) of this plate-shaped body (42) that are located opposite one another.

4. Wiper blade according to claim 16, wherein the claws (46) are arranged at the longitudinal sides (44) by pairs located opposite one another.

5. Wiper blade according to claim 3, wherein the body (42) of the holder (16) is provided at its underside facing the upper strip

surfaces (13) of the two carrying rails (12) with a longitudinal cutout (54) for receiving a cover strip (40) of the wiping strip (20) defining the width of the two receiving grooves (32).

6. Wiper blade according to claim 16, wherein the holder (16) is provided with means (48) for connecting the wiper arm (18).

Claim 7 cancelled.

8. Wiper blade according to claim 16, wherein the holder (16) is made of plastic.

9. Wiper blade according to claim 16, wherein the holder (16) is made of metal.

10. Wiper blade according to claim 16, wherein each carrying rail (112, 212, 312, respectively) is provided with at least one projection (116, 216, 316, respectively) at its inner longitudinal edges (114, 214, 314, respectively) facing the longitudinal web (36) of the wiping strip (20).

11. Wiper blade according to claim 10, wherein in that the projection (116) of one carrying rail (112) is located opposite to the projection (116) of the other carrying rail (112).

12. Wiper blade according to claim 10, wherein the projection (216) of one carrying rail (212) is arranged so as to be offset with respect to the projection (216) of the other carrying rail (212) in its longitudinal direction.

13. Wiper blade according to claim 10, wherein a recess (318) of one carrying rail (312 or 313) is located opposite to the projection (316) of the other carrying rail (312 or 313).

Claims 14-15 cancelled.

16. A wiper blade for window panes in motor vehicles, comprising an elongated rubber-elastic wiping strip (20) contactable with a window pane and having two longitudinal sides in which open-edged longitudinal receiving grooves (32) are arranged in a plane approximately parallel to the window pane, with a longitudinal web (36) provided between bases of the receiving grooves (32); a carrying element having two strip-shaped elongated, resilient carrying rails (12) which are accommodated in the grooves (32) so that the wiping strip (20) is located directly on a lower side of the carrying rails (12); a connection device for a wiper arm, which is a part of the carrying element and in a middle region is arranged directly on an upper side of the carrying rails (12), and the carrying rails being secured in the receiving grooves (32) transversely to their longitudinal extension with L-shaped claws ~~in the receiving grooves (32)~~, wherein a first L-leg (48) of each L-shaped claw traverses outer edges (52) of the carrying rails (12) and a second L-leg (50) engages under the respective carrying rail (12), wherein a distance (60) measured transverse to a longitudinal extension of the wiper blade (10) between facing inner edges of the first L-leg (48) is less than a sum of a width (62) of the two carrying rails (12) plus a width of the longitudinal web (36) of the wiping strip (20), so that the wiping strip (20) is held by a compression produced in the web

in the middle region of the wiper blade under the connection device relative to the carrying element.

17. A wiper system for window panes of motor vehicles, comprising a wiper arm; and a wiper blade mountable on the wiper arm and including an elongated rubber-elastic wiping strip (20) contactable with a window pane and having two longitudinal sides, in which open-edged longitudinal receiving grooves (32) are arranged in a plane approximately parallel to the window pane, with a longitudinal web (36) provided between bases of the receiving grooves (32); a carrying element having two strip-shaped elongated, resilient carrying rails (12) which are accommodated in the grooves (32) so that the wiping strip (20) is located directly on a lower side of the carrying rails (12); a connection device for a wiper arm, which is a part of the carrying element and in a middle region is arranged directly on an upper side of the carrying rails (12), and the carrying rails being secured in the receiving grooves (32) transversely to their longitudinal extension with L-shaped claws, wherein a first L-leg (48) of each L-shaped claw traverses outer edges (52) of the carrying rails (12) and a second L-leg (50) engages under the respective carrying rail (12), wherein a distance (60) measured transverse to a longitudinal extension of the wiper blade (10) between facing inner edges of the first L-leg (48) is less than a sum of a width (62) of the two carrying rails (12) plus a width of the longitudinal web (36) of the wiping strip (20), so that the wiping strip (20) is held by a compression produced in the web in the middle region of

the wiper blade under the connection device relative to the carrying element.

18. Wiper blade for window panes in motor vehicles, comprising an elongated rubber-elastic wiping strip (20) which can contact the window pane (14) and is provided at both of its longitudinal sides (30) with open-edged longitudinal receiving grooves (32) which are arranged in a plane approximately parallel to the window pane and forming a longitudinal web (36) therebetween; a carrying element formed by at least two strip-shaped elongated, resilient separate carrying rails (12) accommodated in the grooves (32), the inner edges of the carrying rails (12) which face one another contact the longitudinal web (36) of the wiping strip (20) and the two carrying rails (12) are secured in the grooves (32) transverse to their longitudinal extension; a connection device formed as a holder (16) which secures the carrying rails (12) in the grooves (32) and is provided with means for connection of a wiper arm, wherein the holder is provided with L-shaped claws (46) each having two legs with a first L-leg (48) traversing outer edges (52) of the carrying rails and a second L-leg (50) engaging under the respective carrying rail (12), and a distance (60) measured transverse to the longitudinal extension of the wiper blade (10) between inner edges of the first L-leg (48) which face one another at least in a region of the L-legs is less than a sum of a width (62) of the two carrying rails (12) plus a width (46) of the longitudinal web (36) of the

wiping strip (20), whereby the wiping strip (20) provided with the carrying rails (12) is held by compression produced in the longitudinal web (36), wherein said carrying element has a lower side on which the wiping strip (20) is directly placed and an upper side on which said connection device is directly placed, wherein the lower strip surfaces (19) of the two carrying rails (12) together enclose an angle (α) that is less than 180° .

19. A method for mounting a wiper blade, comprising an elongated rubber-elastic wiping strip (20) which can contact the window pane (14) and is provided at both of its longitudinal sides (30) with open-edged longitudinal receiving grooves (32) which are arranged in a plane approximately parallel to the window pane and forming a longitudinal web (36) therebetween; a carrying element formed by at least two strip-shaped elongated, resilient separate carrying rails (12) accommodated in the grooves (32), the inner edges of the carrying rails (12) which face one another contact the longitudinal web (36) of the wiping strip (20) and the two carrying rails (12) are secured in the grooves (32) transverse to their longitudinal extension; a connection device formed as a holder (16) which secures the carrying rails (12) in the grooves (32) and is provided with means for connection of a wiper arm, wherein the holder is provided with L-shaped claws (46) each having two legs with a first L-leg (48) traversing outer edges (52) of the carrying rails and a second L-leg (50) engaging under the respective carrying rail (12) and a distance (60) measured transverse to the longitudinal extension of the wiper blade (10) between inner edges of the first L-leg (48) which face one another at least in a region of the L-legs is less than a sum of a width (62) of the two carrying rails (12) plus a width (46) of the longitudinal web (36) of the wiping strip (20), whereby the wiping strip (20) provided with the carrying rails (12) is held by compression produced in the longitudinal web (36), wherein said carrying element has a lower side on which the wiping strip (20) is directly placed and an upper side on which said connection device is directly placed, wherein the carrying rails (12) are introduced into their receiving grooves (32) and their upper strip surfaces (13) are tilted relative to one another in such a way that, together, they enclose an angle (β) of less than 180° , and the carrying rails (12) are then inserted together with the wiping strip (20) into the existing space (80) between the claws (46) arranged at the oppositely located longitudinal sides (44) of the holder (16), in which space (80) the carrying rails (12), when released,

automatically attain their operating position and are fixed in the holder (16) together with the wiping strip (20) by the resulting compression of the longitudinal web (36).